HMRC - VATSC82160 - College Of Estate Management (2005 UKHL 62)

The College was an eligible body providing education. They supplied their students with printed manuals which they were expected to study.

The College considered that they were making an exempt supply of education services and a separate zero-rated supply of the manuals. As a result they considered that the tax incurred in the purchase of the manuals was deductible as their input tax.

HMRC’s view was that there was a single exempt supply and on that basis that the input tax was irrecoverable.

In this case the court considered the original wording from CPP in French which was later translated into English to form the text. The judgment had used the word ‘prestation’ which is more correctly translated as supply rather than service.

Any usage should be consistent and at the beginning of para 30 the Court says it is useful to emphasise that there is a single supply (prestation) where one or more elements are to be regarded as constituting the principal “supply” while one or more (other) elements are to be regarded as an ancillary supply or as ancillary “supplies” (prestations) which share the tax treatment of the principal service.

The court considered the mere fact that the supply of the printed materials cannot be described as ancillary does not mean it is to be regarded as a separate supply for tax purposes. There was a need to decide whether, as a matter of statutory interpretation, the College should properly be regarded as making a separate supply of the printed materials or, rather, a single supply of education, of which the provision of the printed materials is merely one element.

Only in the latter event is there a single exempt supply. The question is whether, for tax purposes, these are to be treated as separate supplies or merely as elements in some over-arching single supply. According to CPP, at para 29, for the purposes of the directive the criterion to be applied is whether there is a single supply “from an economic point of view”. If so, that supply should not be artificially split, so as not to be distortive. The answer will accordingly be found by ascertaining the essential features of the transaction under which the taxable person is operating when supplying the consumer.

The tribunal concluded that the College made one supply of the provision of education. The House of Lords agreed and re-instated their finding after the Court of Appeal had overruled it. It cited the finding that the students took the courses in order to obtain the relevant qualification offered by the College as particularly relevant. The transaction was therefore one which gave the students the opportunity, by successfully studying the printed materials and completing the other necessary steps, to obtain a valuable qualification. That was what the students were purchasing and on that basis the College made no separate zero-rated supply of the books.

The court also concluded that there was no need to identify what was “principal” and what was “ancillary” in every case. What the judge called “a component part of a single supply” may be essential to it - a restaurant with no food is almost a contradiction in terms, and could not supply its customers with anything - and yet the economic reality is that the restaurateur provides a single supply of services. The same sort of relationship exists between the educational services which the College provides to a student who takes one of its distance-learning courses and the written materials which it provides to the student.

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